

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN HARRISON SMITH	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	NO. 05-4760
	:	
CITY OF PHILADELPHIA, , 9TH	:	
DISTRICT, CRIMINAL JUSTICE	:	
CENTER, OFFICER SULOCK	:	
GREGORY 1220, and PUBLIC	:	
DEFENDER ASSOCIATION	:	
Respondents.	:	

O R D E R

AND NOW, this 11th day of April, 2006, upon consideration of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapaport dated March 15, 2006, and the record in this case, no objections having been filed, and good cause appearing, IT IS ORDERED as follows:

1. The Report and Recommendation of United States Magistrate Judge Arnold C. Rapaport dated March 15, 2006, is **APPROVED** and **ADOPTED**;
2. The Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED** for failure to exhaust state remedies;
3. Plaintiff's Complaint under 42 U.S.C. § 1983 is **DISMISSED WITHOUT PREJUDICE**; and,
4. A certificate of appealability will not issue on the ground that petitioner has not made a substantial showing of a denial of a constitutional right as required under 28 U.S.C. § 2253 (c)(2).

BY THE COURT:

/s/ Honorable Jan E. DuBois
JAN E. DUBOIS, J.

